IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE V.GIRI

FRIDAY, THE 10TH AUGUST 2007 / 19TH SRAVANA 1929

MFA.No. 513 of 2001()

OPMV.1459/1997 of MOTOR ACCIDENT CLAIMS TRIBUNAL, ALAPPUZHA.

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APPELLANT: IST RESPONDENT IN OP(MV) NO.1459/97

THE MANAGING DIRECTOR, KSRTC LTD., THIRUVANANTHAPURAM.

BY ADV. SRI.JOSE THETTAYIL, SC, KSRTC

RESPONDENTS: PETITIONERS & 2ND RESPONDENT IN OP(MV) 1459/97
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1. **JESSY JOSEPH, W/O. JOSEPH, KATTUNKAL THAIPARAMBU, VAZHICHERRY WARD, ALAPPUZHA.**

2. **LIDDA JOSEPH @ NISHA, D/O. JOSEPH, KATTUNKAL THAIPARAMBU, VACHICHERRY WARD, ALAPPUZHA (MINOR REP.BY MOTHER AND GUARDIAN SMT.JESSY JOSEPH, KATTUNKAL OF DO. DO.**

3. **JOHN JOSEPH @ NIBU, S/O. JOSEPH OF /-DO- -DO- (MINOR REP.BY MOTHER AND GUARDIAN JESSY JOSEPHM OF DO. DO.**

4. **ANTONY, S/O. JOSEPH, OF DO. DO.**

5. **ANNAMMA, W/O. ANTONY OF DO. DO.**

6. **SASI, S/O. GOPALAN, PERUMANA PATHEETATHIL,. ARATTUPUZHA PATTOLI MARKET, ARATTUPUZHA P.O.**

BY ADV. SRI.BEPIN VIJAYAN - R5

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 10/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & V.GIRI, JJ.

C.M.P.No.4588 of 2001
& M.F.A.No.513 of 2001

Dated this the 10th day of August, 2007.

JUDGMENT

Koshy, J.

C.M.P.No.4588 of 2001 is for condoning the delay of 289 days. Notice was ordered on 22.10.2002. Notice to the 1st respondent was returned unserved stating 'out of India'. Notice to 4th respondent was returned unserved stating 'expired'. Service is not, so far, complete.

2. The claimants are the wife and children of the deceased. The deceased, who was aged 41 years conducting a driving school, died leaving his wife and children. The tribunal has taken only Rs.3,000/- as the monthly income and deducted 1/3rd and calculated compensation. Since notice to the 4th respondent was returned unserved stating 'expired' and no steps were taken to implead the legal representatives, we dismiss the delay condonation petition [C.M.P.No.4588 of 2001] as abated.

In the light of the dismissal of C.M.P.No.4588 of 2001, the appeal also will stand dismissed.

Sd/-
(J.B.KOSHY)
JUDGE

Sd/-
(V.GIRI)
JUDGE

sk/

//true copy//

P.S. To Judge

J.B.KOSHY & V.GIRI, JJ.

C.M.P.No.4588 of 2001
M.F.A.No.513 of 2001

JUDGMENT

10TH AUGUST, 2007.